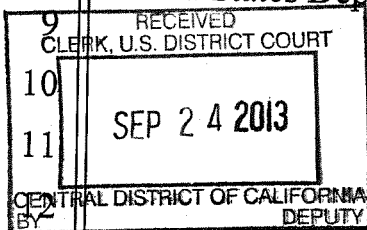
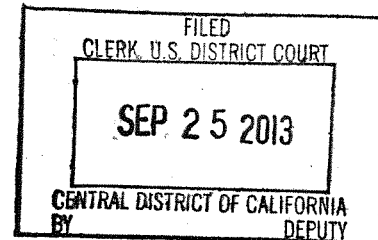


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Regional Solicitor
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Attorneys for Plaintiff
United States Department of Labor



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

SUNKIST GROWERS, INC., a California
corporation;

**SUNKIST RETIREMENT PLAN A (PLAN
A)**, an employee pension benefit plan;

**SUNKIST RETIREMENT PLAN N (PLAN
N)**, an employee pension benefit plan;

**RETIREMENT PLAN FOR HOURLY
EMPLOYEES OF PRODUCTS GROUP,
SUNKIST GROWERS, INC. (HOURLY
PLAN)**, an employee pension benefit plan;

**DON DAMES, BILL CHANEY, RICHARD
FRENCH, RUSS HANLIN, NAZIR KHAN,
DICK NEECE, CHARLES WOLTMANN,
MICHAEL WOOTTON**, the individual
members of the PLAN BOARD OF SUNKIST
RETIREMENT PLAN, an employee pension
benefit plan fiduciary;

**CLIFF BRADY, BARBARA RATCHFORD,
CHARLES WOLTMANN, DIANE**

Case No. **CV 13-07116-PA**

(MWR)

**COMPLAINT FOR VIOLATIONS
OF ERISA**

1 **JOHNSON, CHRISTINE HAGEMANN,**
 2 the individual members of the
 3 **ADMINISTRATIVE COMMITTEE TO THE**
 4 **HOURLY PLAN,** an employee pension benefit
 5 plan fiduciary;

6 and

7 **JOHN MCGOVERN,** an individual.

8 Defendants.

9 THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor (the
 10 "Secretary"), brings this action against SUNKIST GROWERS, INC., a California corpo-
 11 ration ("Company"); SUNKIST RETIREMENT PLAN A ("Plan A"), an employee pen-
 12 sion benefit plan; SUNKIST RETIREMENT PLAN N ("Plan N") an employee pension
 13 benefit plan; RETIREMENT PLAN FOR HOURLY EMPLOYEES OF PRODUCTS
 14 GROUP SUNKIST GROWERS, INC. (the "Hourly Plan"), an employee pension benefit
 15 plan; DON DAMES, BILL CHANEY, RICHARD FRENCH, RUSS HANLIN, NAZIR
 16 KHAN, DICK NEECE, CHARLES WOLTMANN, MICHAEL WOOTTON, the indi-
 17 vidual members of the PLAN BOARD OF SUNKIST RETIREMENT PLAN ("Plan
 18 Board"), an employee pension benefit plan fiduciary (collectively referred to as the "In-
 19 dividual Plan Board Members"); CLIFF BRADY, BARBARA RATCHFORD,
 20 CHARLES WOLTMANN, DIANE JOHNSON, CHRISTINE HAGEMANN, the indi-
 21 vidual members of the ADMINISTRATIVE COMMITTEE TO THE HOURLY PLAN
 22 ("Administrative Committee"), an employee pension benefit plan fiduciary (collectively
 23 referred to as the "Individual Administrative Committee Members"); and JOHN
 24 MCGOVERN, an individual ("McGovern") (all aforementioned defendants collectively
 25 are referred to as "Defendants") and hereby alleges:

- 26 1. This action arises under Title I of the Employee Retirement Income Security Act
 27 of 1974 ("ERISA"), as amended, 29 U.S.C. §§ 1001-1191c, and is brought by
 28

1 the Secretary under ERISA §§ 502(a)(2) and (5), 29 U.S.C. §§ 1132(a)(2) and
 2 (5), to enjoin acts and practices that violate the provisions of Title I of ERISA,
 3 to obtain appropriate equitable relief for breaches of fiduciary duty under
 4 ERISA § 409, 29 U.S.C. § 1109, and to obtain such further equitable relief as
 5 may be appropriate to redress and to enforce the provisions of Title I of ERISA.
 6

7 **JURISDICTION & VENUE**

- 8 2. This Court has jurisdiction over this action pursuant to ERISA § 502(e)(1), 29
 9 U.S.C. § 1132(e)(1).
 10 3. Venue of this action lies in the district court for the Central District of California
 11 pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because at all relevant
 12 times, Plan A, Plan N, and the Hourly Plan (collectively, the "Plans") have been
 13 administered in Los Angeles County, and the breaches took place in Los Ange-
 14 les County, which lies within this district.
 15

16 **DEFENDANTS**

- 17 4. Each of the Plans is an employee pension benefit plan within the meaning of
 18 ERISA § 3(3), 29 U.S.C. § 1002(3), which is subject to the provisions of Title I
 19 of ERISA pursuant to ERISA § 4(a), 29 U.S.C. § 1003(a).
 20 5. At all relevant times, Defendant Company was and is a fiduciary of the Plans
 21 within the meaning of ERISA §§ 3(21)(A)(i) and (iii), 29 U.S.C.
 22 §§ 1002(21)(A)(i) and (iii); and a party in interest to the Plans within the mean-
 23 ing of ERISA §§ 3(14)(A) and (C), 29 U.S.C. §§ 1002(14)(A) and (C).
 24 6. At all relevant times, the Plan Board was and is the named Plan Administrator
 25 and Plan Sponsor of Plans A and N. At all relevant times, Defendants Don
 26 Dames, Bill Chaney, Richard French, Russ Hanlin, Nazir Khan, Dick Neece,
 27 Charles Woltmann, and Michael Wootton ("Individual Plan Board Members")
 28 exercised discretionary authority and control respecting the management and

1 disposition of Plans A and N and their assets; exercised discretionary authority
2 and responsibility in the administration of Plans A and N; were and are fiduciar-
3 ies of Plans A and N within the meaning of ERISA §§ 3(21)(A)(i) and (iii), 29
4 U.S.C. §§ 1002(21)(A)(i) and (iii); and were and are parties in interest to Plans
5 A and N within the meaning of ERISA § 3(14)(A), 29 U.S.C. § 1002(14)(A).

6 7. At all relevant times, the Administrative Committee was and is the named Plan
7 Administrator of the Hourly Plan. At all relevant times, Defendants Cliff Brady,
8 Barbara Ratchford, Charles Woltmann, Diane Johnson, and Christine Hagemann
9 (“Individual Administrative Committee Members”) exercised discretionary au-
10 thority and control respecting the management and disposition of the Hourly
11 Plan and its assets; exercised discretionary authority and responsibility in the
12 administration of the Hourly Plan; were and are fiduciaries of the Hourly Plan
13 within the meaning of ERISA §§ 3(21)(A)(i) and (iii), 29 U.S.C.

14 §§ 1002(21)(A)(i) and (iii); and were and are parties in interest to the Hourly
15 Plan within the meaning of ERISA § 3(14)(A), 29 U.S.C. § 1002(14)(A).

16 8. At all relevant times, Defendant McGovern, the Company’s Human Resources
17 Vice President, exercised discretionary authority and control respecting the
18 management and disposition of the Plans and their assets; exercised discretion-
19 ary authority and responsibility in the administration of the Plans; was and is a
20 fiduciary of the Plans within the meaning of ERISA §§ 3(21)(A)(i) and (iii), 29
21 U.S.C. §§ 1002(21)(A)(i) and (iii); and was and is a party in interest to the Plans
22 within the meaning of ERISA § 3(14)(A), 29 U.S.C. § 1002(14)(A).

23 9. The Plans are named as Defendants pursuant to Rule 19(a) of the Federal Rules
24 of Civil Procedure, solely to ensure that complete relief can be granted.
25
26
27
28

ALLEGATIONS

Defendants Caused the Plans to Improperly Reimburse the Company for Non-Reimbursable Salary, Benefits and Other Expenses for Employees in the Company's Legal, Accounting, and/or Other Departments

10. Paragraphs 1-9 above are realleged and incorporated herein by reference.
11. At all relevant times, the Company has operated as a citrus farming cooperative headquartered in Sherman Oaks, California.
12. The Sunkist Retirement Plan was originally adopted by the Company effective January 1, 1960, and subsequently split into four separate plans, including Plans A and N, effective January 1, 1989.
13. Plans A and N are defined benefit pension plans. Plans A and N have the same governing Plan documentation and provide identical benefits.
14. Plan A covers certain salaried employees of the Company who had elected to participate prior to January 1, 1989.
15. Plan N was designed to cover certain salaried employees of the Company who elected to participate after January 1, 1989.
16. On January 1, 2005, Plans A and N were frozen to new participation.
17. The Hourly Plan is a defined benefit pension plan that was originally adopted by the Company on November 1, 1957. The Hourly Plan covers hourly employees of the Company's Processed Products Division.
18. The governing Plan documents for Plans A and N name the Plan Board as Plan Administrator, Fiduciary, and Plan Sponsor. The governing Plan documents provide that the Plan Board consist of nine individual members (Defendant Individual Plan Board Members). The governing Plan documents provide that the Company appoint the Individual Plan Board Members. The governing Plan documents provide that the Individual Plan Board Members are granted all powers, duties and discretionary authority necessary to administer, interpret, and apply Plans A and N.

- 1 19. The governing Plan documents for the Hourly Plan name the Administrative
2 Committee as Plan Administrator and Fiduciary. The governing Plan docu-
3 ments provide that the Administrative Committee consist of at least three mem-
4 bers (Defendant Individual Administrative Committee Members). The govern-
5 ing Plan documents provide that the Company appoint the Individual Adminis-
6 trative Committee Members. The governing Plan documents provide that the
7 Individual Administrative Committee Members have full power, discretion, and
8 authority to administer the Hourly Plan and to construe and apply all of its pro-
9 visions on behalf of the Company.
- 10 20. The Company is named as Plan Sponsor of the Hourly Plan.
- 11 21. Defendant Individual Plan Board Members and Defendant Individual Adminis-
12 trative Committee Members have delegated certain fiduciary functions for ad-
13 ministration of the Plans to Defendant McGovern. McGovern is a functional fi-
14 duciary to the Plans, as he has been granted powers, duties and discretionary au-
15 thority necessary to administer, interpret, and apply the Plans.
- 16 22. Plans A and N are funded by Company contributions paid directly to the Plans'
17 directed trustee, Union Bank, on dates designated by the Plan Board.
- 18 23. The governing Plan documents for the Hourly Plan state the Company's intent
19 to make contributions necessary to maintain the Hourly Plan on a sound actuari-
20 al basis and meet minimum funding standards as required by law.
- 21 24. Participants in the Plans are eligible to receive a monthly retirement benefit
22 commencing at the participant's normal retirement age and continuing through
23 the duration of the participant's lifetime.
- 24 25. According to their IRS Form 5500s, as of December 31, 2010, Plan A had 7,007
25 participants and beneficiaries; Plan N had 1,044 participants and beneficiaries;
26 and the Hourly Plan had 637 participants and beneficiaries.
- 27 26. During the period from January 2006 through at least April 2011, the Company
28 engaged in a practice whereby it would send quarterly invoices to the Plan

1 Board or Administrative Committee seeking reimbursement for expenses pur-
2 portedly related to Plan administration for Plans A, N, and the Hourly Plan.

3 27. During the period from January 2006 through at least April 2011, the Company
4 sought reimbursement from Plans A and N for the salary, benefits, and other ex-
5 penses of the Company's Chief Financial Officer, Cash Management Depart-
6 ment, Corporate Accounting Department, Human Resources ("HR") Depart-
7 ment, and Legal Department.

8 28. During the period from January 2006 through at least April 2011, the Company
9 sought reimbursement from the Hourly Plan for the salary, benefits, and other
10 expenses of the Company's HR Department.

11 29. The quarterly invoices sent by the Company to the Plan Board or Administrative
12 Committee listed only a generic category of work (i.e., "Legal," "Finance") fol-
13 lowed by the requested reimbursement amount. The requested reimbursement
14 amount was purportedly based on an estimated percentage of time that the
15 Company believed an individual or department spent on Plan-related activities.
16 None of the aforementioned departments or employees worked exclusively on
17 Plan administration, and no time records or other supporting documentation was
18 provided with the invoices to explain the purported Plan-related activities for
19 which the Company sought reimbursement from the Plans.

20 30. Despite this lack of detail, during the period from January 2006 through at least
21 April 2011, the Plan Board and Administrative Committee repeatedly caused the
22 Company's quarterly invoices to be paid in their full amounts by the Plans.
23 Given its larger number of participants, the Plan fiduciaries held Plan A respon-
24 sible for 90% of each quarterly payment, and Plan N responsible for the remain-
25 ing 10%. The Hourly Plan was invoiced separately by the Company and pro-
26 vided separate reimbursement checks.

27 31. During the period from January 2006 through at least April 2011, Defendants
28 caused the Company to be improperly reimbursed by the Plans for the salary,

benefits, and other expenses of the Company's Chief Financial Officer, Cash Management Department, Corporate Accounting Department, HR Department, and/or Legal Department. The total losses to the Plans for this improper reimbursement are not less than \$1,114,750.00, plus lost-opportunity income that continues to accrue.

Defendants Caused the Plans to Improperly Reimburse the Company for the Salary, Benefits and Other Expenses for Employees in the Company's Pension Administration Department at the Projected, Rather than Actual, Rate

32. Paragraphs 1-31 above are realleged and incorporated herein by reference.

33. During the period from January 2006 through at least April 2011, the Company engaged in a practice whereby it would send quarterly invoices to the Plan Board or Administrative Committee seeking reimbursement for the salary, benefits, and other expenses of the Company's Pension Administration Department ("Pension Department"). The Pension Department spends all of its time devoted to administration of the Company's Plans.

34. In 2007 and 2008, Defendants caused the Plans to improperly reimburse the Company for the Pension Department's projected expenses, rather than the lower actual expenses incurred.

35. The losses to the Plans for this overpayment are not less than \$118,909.00, plus lost-opportunity income that continues to accrue.

VIOLATIONS OF ERISA

36. By the conduct described in paragraphs 10-31 above, Defendant Company, Defendant Individual Plan Board Members, Defendant Individual Administrative Committee Members, and McGovern, acting in their fiduciary capacities:

- a. Permitted the assets of the Plans to inure to the benefit of the Company, in violation of ERISA § 403(c)(1), 29 U.S.C. § 1103(c)(1);

- b. Failed to act solely in the interest of the participants and beneficiaries of the Plans and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable expenses of Plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A);
 - c. Failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);
 - d. Caused the Plans to engage in transactions which they knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D); and
 - e. Dealt with assets of the Plans in their own interests and acted on behalf of a party whose interests are adverse to the interests of the Plan or the interests of its participants and beneficiaries, in violation of ERISA § 406(b)(1) and (2), 29 U.S.C. § 1106(b)(1) and (2).
37. By the conduct described in paragraphs 32-35 above, Defendant Company, Defendant Individual Plan Board Members, Defendant Individual Administrative Committee Members, and McGovern, acting in their fiduciary capacities:
- a. Permitted the assets of the Plans to inure to the benefit of the Company, in violation of ERISA § 403(c)(1), 29 U.S.C. § 1103(c)(1);
 - b. Failed to act solely in the interest of the participants and beneficiaries of the Plans and for the exclusive purpose of providing benefits to participants and beneficiaries and defraying reasonable expenses of Plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A);
 - c. Failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and fa-

miliar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);

d. Caused the Plans to engage in transactions which they knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D); and

e. Dealt with assets of the Plans in their own interests and acted on behalf of a party whose interests are adverse to the interests of the Plan or the interests of its participants and beneficiaries, in violation of ERISA § 406(b)(1) and (2), 29 U.S.C. § 1106(b)(1) and (2).

38. As a direct and proximate result of the breaches of fiduciary duties committed by Defendants, as described in paragraphs 10-35 above, the Plans have suffered losses, including lost-opportunity income that continues to accrue, for which Defendants are jointly and severally liable, pursuant to ERISA § 409, 29 U.S.C. § 1109.

39. Defendant Company is liable as a co-fiduciary pursuant to ERISA § 405(a), 29 U.S.C. § 1105(a), for the violations alleged in paragraphs 10-35 above because: (1) it knowingly participated in, or knowingly undertook to conceal, acts or omissions, of the other Defendants; (2) it enabled the other Defendants to commit such breaches by its failure to comply with ERISA § 404(a)(1)(A), (B), 29 U.S.C. § 1104(a)(1)(A), (B), in the administration of its specific responsibilities which gave rise to its status as a fiduciary; or (3) it had knowledge of the other Defendants' breaches and failed to make reasonable efforts under the circumstances to remedy such breaches.

40. Defendant Individual Plan Board Members are liable as co-fiduciaries pursuant to ERISA § 405(a), 29 U.S.C. § 1105(a), for the violations alleged in paragraphs 10-35 above because: (1) they knowingly participated in, or knowingly under-

1 took to conceal, acts or omissions, of the other Defendants; (2) they enabled the
2 other Defendants to commit such breaches by their failure to comply with
3 ERISA § 404(a)(1)(A), (B), 29 U.S.C. § 1104(a)(1)(A), (B), in the administra-
4 tion of their specific responsibilities which gave rise to their status as a fiduci-
5 ary; or (3) they had knowledge of the other Defendants' breaches and failed to
6 make reasonable efforts under the circumstances to remedy such breaches.

7 41. Defendant Individual Administrative Committee Members are liable as co-
8 fiduciaries pursuant to ERISA § 405(a), 29 U.S.C. § 1105(a), for the violations
9 alleged in paragraphs 10-35 above because: (1) they knowingly participated in,
10 or knowingly undertook to conceal, acts or omissions, of the other Defendants;
11 (2) they enabled the other Defendants to commit such breaches by their failure
12 to comply with ERISA § 404(a)(1)(A), (B), 29 U.S.C. § 1104(a)(1)(A), (B), in
13 the administration of their specific responsibilities which gave rise to their status
14 as a fiduciary; or (3) they had knowledge of the other Defendants' breaches and
15 failed to make reasonable efforts under the circumstances to remedy such
16 breaches.

17 42. Defendant McGovern is liable as a co-fiduciary pursuant to ERISA § 405(a), 29
18 U.S.C. § 1105(a), for the violations alleged in paragraphs 10-35 above because:
19 (1) he knowingly participated in, or knowingly undertook to conceal, acts or
20 omissions, of the other Defendants; (2) he enabled the other Defendants to
21 commit such breaches by his failure to comply with ERISA § 404(a)(1)(A), (B),
22 29 U.S.C. § 1104(a)(1)(A), (B), in the administration of his specific responsibili-
23 ties which gave rise to his status as a fiduciary; or (3) he had knowledge of the
24 other Defendants' breaches and failed to make reasonable efforts under the cir-
25 cumstances to remedy such breaches.

26 43. As a direct and proximate result of the breaches and violations set forth in para-
27 graphs 10-35 above, the Secretary is entitled to such equitable or remedial relief
28 as the Court may deem appropriate, including restoration of all Plan losses, in-

cluding lost-opportunity income that continues to accrue, pursuant to ERISA § 409, 29 U.S.C. § 1109.

PRAYER FOR RELIEF

WHEREFORE, the Secretary prays for judgment:

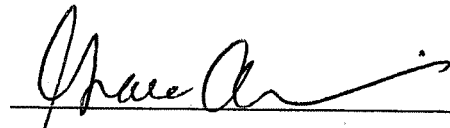
- A. Ordering Defendants to restore to the Plans any losses, including lost-opportunity income that continues to accrue, resulting from fiduciary breaches committed by them or for which they are liable;
- B. Ordering a full accounting of the Plans as a result of said fiduciary breaches;
- C. Ordering Defendants to correct the prohibited transactions in which they engaged or in which they caused the Plans to engage;
- D. Permanently enjoining Defendants from violating the provisions of Title I of ERISA, including ERISA § 412(a) and (b), 29 U.S.C. § 1112(a) and (b);
- E. Awarding the Secretary the costs of pursuing this action; and
- F. Ordering such further relief as the Court deems to be appropriate and just.

M. PATRICIA SMITH
Solicitor of Labor

JANET M. HEROLD
Regional Solicitor

DANIELLE L. JABERG
Counsel for ERISA

Dated: September 23, 2013


GRACE A. KIM
Trial Attorney
Attorneys for the Secretary

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Percy Anderson and the assigned Magistrate Judge is Michael R. Wilner.

The case number on all documents filed with the Court should read as follows:

2:13-CV-7116-PA (MRWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 25, 2013

Date

By MDAVIS

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:



Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012



Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701



Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Grace A. Kim, Trial Attorney (CSBN 247456)
 Office of the Solicitor
 United States Department of Labor
 350 S. Figueroa Street, Suite 370
 Los Angeles, CA 90071
 Phone: (213) 894-3950

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Thomas E. Perez, Secretary of Labor
 U.S. Department of Labor

PLAINTIFF(S)

v.

Sunkist Growers, Inc., a California
 corporation; et al., (See Attachment)

DEFENDANT(S).

CASE NUMBER

CV 13-07116 -PA(mew)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Grace Kim, whose address is Office of the Solicitor/U.S. DOL, 350 S. Figueroa St., Suite 370, Los Angeles, CA 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

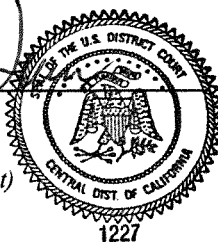
Clerk, U.S. District Court

Dated: SEP 25 2013

By: Marilyn D.

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Sunkist Growers, Inc., a California corporation;
Sunkist Retirement Plan A (Plan A),
an employee pension benefit plan;
Sunkist Retirement Plan N (Plan N),
an employee pension benefit plan;
**Retirement Plan for Hourly Employees
of Products Group, Sunkist Growers, Inc. (Hourly Plan)**,
an employee pension benefit plan;
**Don Dames, Bill Chaney, Richard French, Russ Hanlin,
Nazir Khan, Dick Neece, Charles Woltmann, Michael Wootton**,
the individual members of the Plan Board of Sunkist Retirement Plan,
an employee pension benefit fiduciary;
**Cliff Brady, Barbara Ratchford, Charles Woltmann, Diane Johnson,
Christine Hagemann**,
the individual members of the
Administrative Committee To The Hourly Plan, an employee pension
benefit plan fiduciary; and
John McGovern, an individual,

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Thomas E. Perez, Secretary of Labor
U.S. Department of Labor

DEFENDANTS (Check box if you are representing yourself ☐)

Sunkist Growers, Inc., a California corporation; et al., (SEE ATTACHMENT)

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

Grace Kim, Attorney, (CSBN 247456)
Office of the Solicitor/U.S. Department of Labor
350 N. Figueroa Street, Suite 370
Los Angeles, CA 90071/ Phone: 213.894.3950

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

Nicholas J. Waddles, Esq., Seyfarth Shaw LLP
One Century Plaza, 2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
Phone: 310-201-1525 Fax: 310-282-6948

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☒ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☐ Yes ☒ No☐ **MONEY DEMANDED IN COMPLAINT: \$****VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
COMPLAINT FOR VIOLATIONS OF ERISA, 29 U.S.C. § 1001-1191 C.**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL PROPERTY	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 740 Railway Labor Act	
		<input type="checkbox"/> 448 Education	<input checked="" type="checkbox"/> 791 Employee Ret. Inc. Security Act	<input type="checkbox"/> 751 Family and Medical Leave Act	
				<input type="checkbox"/> 790 Other Labor Litigation	

FOR OFFICE USE ONLY:

Case Number:

CV13-07116

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside	Then check the box below for the county in which the majority of PLAINTIFFS reside	
	<input checked="" type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims?	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies:

- ☐ 2 or more answers in Column C
☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the
SOUTHERN DIVISION.
 Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. ➡

C.2. Is either of the following true? If so, check the one that applies:

- ☐ 2 or more answers in Column D
☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the
EASTERN DIVISION.
 Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the
WESTERN DIVISION.
 Enter "Western" in response to Question D below.

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: ➡	WESTERN

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**X. SIGNATURE OF ATTORNEY
 (OR SELF-REPRESENTED LITIGANT):** _____

DATE: 09/23/13

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

Sunkist Growers, Inc., a California corporation;
Sunkist Retirement Plan A (Plan A),
an employee pension benefit plan;
Sunkist Retirement Plan N (Plan N),
an employee pension benefit plan;
**Retirement Plan for Hourly Employees
of Products Group, Sunkist Growers, Inc. (Hourly Plan)**,
an employee pension benefit plan;
**Don Dames, Bill Chaney, Richard French, Russ Hanlin,
Nazir Khan, Dick Neece, Charles Woltmann, Michael Wootton**,
the individual members of the Plan Board of Sunkist Retirement Plan,
an employee pension benefit fiduciary;
**Cliff Brady, Barbara Ratchford, Charles Woltmann, Diane Johnson,
Christine Hagemann**,
the individual members of the
Administrative Committee To The Hourly Plan, an employee pension
benefit plan fiduciary; and
John McGovern, an individual,